

**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH JOHN CHARMAN, OWNER OF REAL PROPERTY LOCATED AT 3685 PACES FERRY ROAD, ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF A PRESENTLY EXISTING BOUNDARY WALL WHICH IS LOCATED IN THE PUBLIC RIGHT-OF-WAY RUNNING ALONG PACES FERRY ROAD FOR APPROXIMATELY ONE HUNDRED TWENTY (120) FEET; AND FOR OTHER PURPOSES.

WHEREAS, John Charman (hereinafter "Charman") owns a certain residential real estate parcel located at 3685 Paces Ferry Road, Atlanta, Georgia 30327; and

WHEREAS, Charman is moving through the City of Atlanta's (hereinafter "City") permitting process for the enhancement of a boundary wall (hereinafter "Wall") running along Paces Ferry Road, in front of the Charman property; and

WHEREAS, Charman has been advised that a portion of the presently existing Wall running along the full length of the real estate parcel along Paces Ferry Road is located within the public right-of-way for a distance of approximately one hundred twenty (120) feet; and

WHEREAS, the City's Code of Ordinances, at Sections 138-22 and 138-24, require that an Encroachment Agreement be entered into between the City and Charman for authorization to allow the Wall to remain in the public right-of-way and for authorization for Charman to continue to maintain the Wall that is in the public right-of-way; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachment and has determined that the work will not adversely impact the ability of the affected right-of-way to handle vehicular or pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, Charman desires to continue to maintain the presently existing Wall in the public right-of-way, and to erect a three (3) foot ornamental fence on the wall, in a location as generally depicted on Exhibit "A" attached hereto and by this reference made apart hereof (hereinafter referred to as the "Site Plan"), and

WHEREAS, Charman has agreed to conform to the conditions set out in the Atlanta City Code of Ordinances at Sections 138-22 and 138-24.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for Nonconforming Uses, as outlined in Section 138, Article II, of the City's Code of

Ordinances with John Charman for the purpose of granting to Charman the right to install and the obligation to thereafter maintain a boundary wall in the public right-of-way along a portion of the street frontage at 3685 Paces Ferry Road, Atlanta, Georgia 30327 as depicted in Exhibit "A" attached hereto, in a form and pursuant to conditions determined by the Commissioner of the City's Department of Public Works and the City Attorney, to be desirable, appropriate and in the best interests of the City of Atlanta for this transaction.

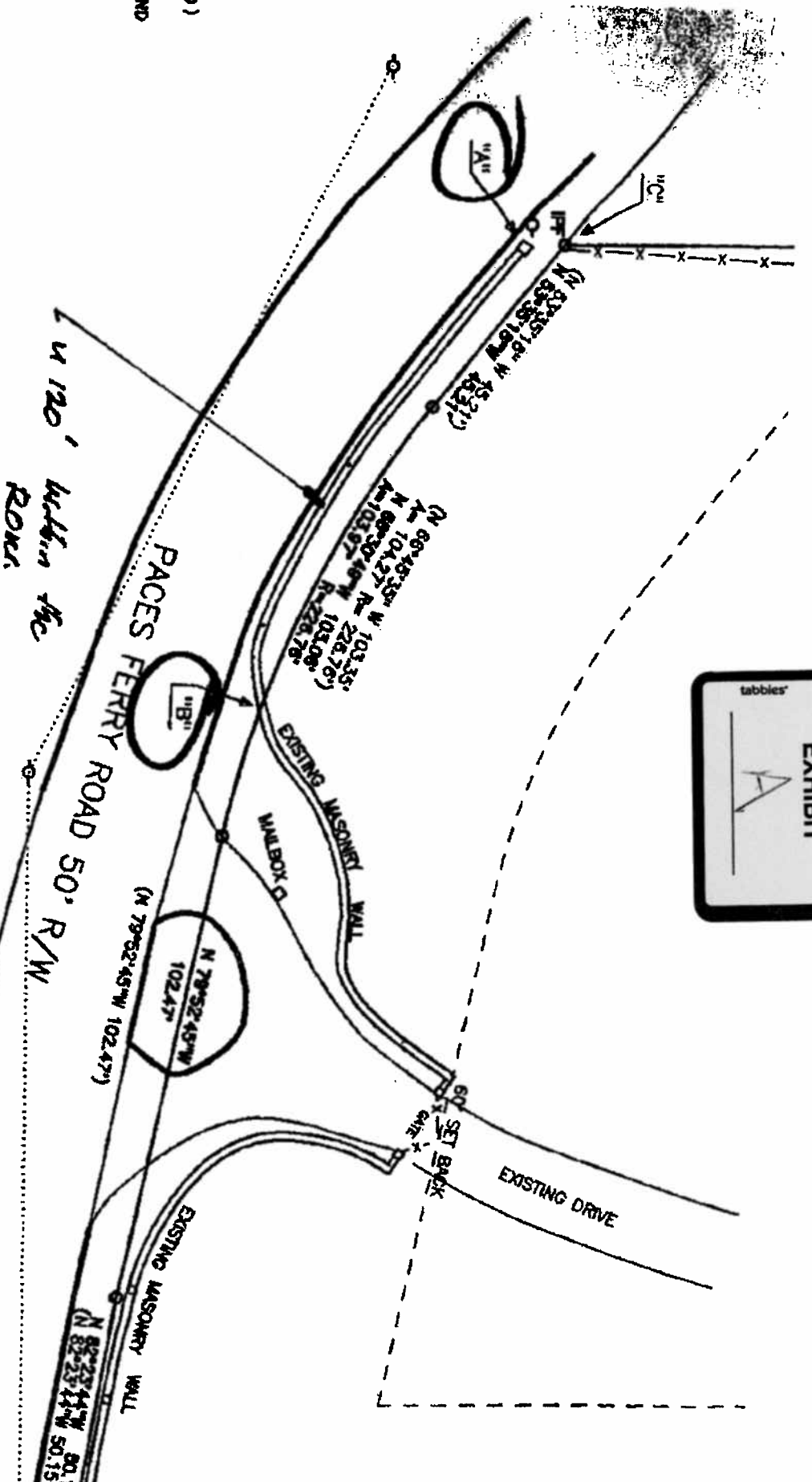
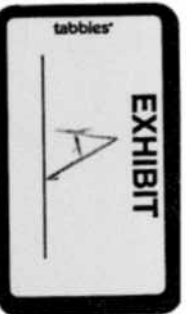
BE IT FURTHER RESOLVED, that the plans and specifications for said retaining Wall and fence shall be submitted for the review and approval of the Commissioner of Public Works.

BE IT FURTHER RESOLVED, that Charman shall indemnify the city for any damages to persons or properties resulting from the erection and maintenance of said Wall.

BE IT FURTHER RESOLVED, that Charman shall, in compliance with Section 138-24 (b)(9) of the City's Code of Ordinances pay to the City, in lieu of an annual rental, the one-time lump sum payment of ten thousand six hundred dollars (\$10,600.00).

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare an agreement, acceptable as to form, for execution by the Mayor and Charman.

BE IT FINALLY RESOLVED, that the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the agreement has been approved as to form by the City Attorney, signed by the Mayor, executed by the City Clerk, and delivered to Charman.



IND 2)

90 E

(3)

RIDGEWOOD ROAD 50' R/W

14120' within the ROW

N 78°52'45\"/>

EXISTING MASONRY WALL

N 83°23'44\"/>

14 = 30

120

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities Committee

Caption: A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH JOHN CHARMAN, OWNER OF REAL PROPERTY LOCATED AT 3685 PACES FERRY ROAD, ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF A PRESENTLY EXISTING BOUNDARY WALL WHICH IS LOCATED IN THE PUBLIC RIGHT-OF-WAY RUNNING ALONG PACES FERRY ROAD FOR APPROXIMATELY ONE HUNDRED TWENTY (120) FEET; AND FOR OTHER PURPOSES.

Council Meeting Date: May 3, 2010

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to enter into an Encroachment Agreement for non-conforming uses with the owner of real property located at 3685 Paces Ferry Rd., Atlanta, GA for the purpose of permitting an existing boundary wall in the public right-of-way.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
- (b) **Source Selection:**
- (c) **Bids/Proposals Due:**
- (d) **Invitations Issued:**
- (e) **Number of Bids:**

(f) Proposals Received:

(g) Bidders/Proponents:

(h) Term of Contract:

4. Fund Account Center:

5. Source of Funds:

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By:

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE BYRD

Dept.'s Legislative Liaison: Cotena Carothers

Contact Number: (404) 330-6501

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: April 13, 2010

Anticipated Committee Meeting Date(s): April 27, 2010

Anticipated Full Council Date: May 3, 2010

Legislative Counsel's Signature: Saul Schultz

Commissioner Signature: Michael Chappin

Chief Procurement Officer Signature: _____

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH JOHN CHARMAN, OWNER OF REAL PROPERTY LOCATED AT 3685 PACES FERRY ROAD, ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF A PRESENTLY EXISTING BOUNDARY WALL WHICH IS LOCATED IN THE PUBLIC RIGHT-OF-WAY RUNNING ALONG PACES FERRY ROAD FOR APPROXIMATELY ONE HUNDRED TWENTY (120) FEET; AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: [Signature] Reviewed by: [Signature]
(date) (date)

Submitted to Council: _____